

REMARKS

Claims 1-14 are all the claims pending in the application. By this Amendment, Applicant amends claims 1, 7, and 8 to further clarify the invention and adds claims 15-17, which are clearly supported throughout the specification.

I. Preliminary Matters

As preliminary matters, Applicant thanks the Examiner for acknowledging the claim to foreign priority. The Examiner, however, alleges that “None of” the priority documents have been received. A certified copy of German Appln. No. 101 253 87.7 was filed on November 21, 2003 and is available on USPTO website (*see* PAIR, document titled “Certified Copy of the Foreign Priority Application” FRPR, 13 pages). Therefore, Applicant respectfully requests that the Examiner indicate receipt of the certified copy of the Priority Document.

Applicant thanks the Examiner for returning the initialed form PTO/SB/08 submitted with the Information Disclosure Statement filed on November 21, 2003.

Applicant respectfully requests the Examiner to indicate acceptance of the drawing figures filed on November 21, 2003.

II. Summary of the Office Action

Claims 1-8 and 1-14 are rejected under 35 U.S.C. § 102 and claim 9 is rejected under 35 U.S.C. § 103.

III. Prior Art Rejections

Claims 1-8 and 10-14 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,088,591 to Trompower et al. (hereinafter “Trompower”). Applicant respectfully traverses these grounds of rejection *at least* in view of the following exemplary comments.

Independent claim 1 *inter alia* recites: “at predefined maximum time intervals, the base stations in the respective radio cells simultaneously transmit test signals during test cycles and simultaneously process the test cycles of a given maximum duration.” The Examiner contends that col. 15, line 60 to col. 16, line 5 of Trompower disclose these unique features of claim 1 (see page 3 of the Office Action). Applicant respectfully disagrees. Applicant has carefully studied Trompower’s disclosure of transmitting test packets, which lack any disclosure of the base stations transmitting the test signals simultaneously and processing the test cycles simultaneously.

In an exemplary, non-limiting embodiment, a method that allows rapid switching between various radio cells with low risk of data loss is provided (see page 2, line 35 to page 3, line 3 of the specification). In this exemplary method, any loss of data is advantageously avoided by having the test cycles of a given maximum duration being simultaneously processed by the base station in given maximum time intervals in which the test signals are transmitted by the base stations. This ensures that a base station does not transmit user data to a mobile subscriber at the same time that the subscriber is evaluating a test signal for another base station. Accordingly, loss of data is prevented without complicated logon and logoff procedures and without keeping lists in the individual base stations of the subscribers logged on in the particular cell. Since in this exemplary method, the base stations simultaneously process the test cycles, these test cycles may be integrated into a cyclical data transmission (see page 6, lines 32 to 34 of the specification). It will be appreciated that the foregoing remarks relate to the invention in a general sense, the remarks are not necessarily limitative of any claims and are intended only to help the Examiner better understand the distinguishing aspects of the claim mentioned above.

In Trompower, the base stations transmit test signals at individually determined times. The base stations communicate these times to the other base stations in data packets, the structure of which is illustrated in Figure 8 of Trompower (col. 14, line 4 to col. 16, line 44). Specifically, Trompower discloses a “test pattern interval field 288” that receives information concerning when and how often a base station from which the particular packet originates transmits test signals to its radio cell (col. 15, lines 60–63). The time intervals are individually calculated in each base station from the information in the “test pattern interval field 288” (col. 16, lines 6 to 44). That is, Trompower clearly describes that each base station has its own, individual test pattern interval 308 (Fig. 10; col. 17, lines 35 to 39).

That is, Trompower discloses that the test pattern interval is unique to each base station and as such varies from one base station to another. In other words, Trompower does not disclose or even remotely suggest the base stations simultaneously transmitting the test signals to the radio cells. Also, Trompower does not disclose or even remotely suggest these various base stations transmitting the test signals in test cycles of a given maximum duration. Furthermore, Trompower does not disclose or remotely suggests the base stations simultaneously processing the test cycles of the given maximum duration.

Therefore, “at predefined maximum time intervals, the base stations in the respective radio cells simultaneously transmit test signals during test cycles and simultaneously process the test cycles of a given maximum duration,” as set forth in claim 1 is not disclosed by Trompower, which lacks having the base stations simultaneous transmit the test signals and simultaneously process the test cycles of a given maximum duration. For at least these exemplary reasons, claim 1 is patentably distinguishable (and is patentable over) Trompower. Accordingly, Applicant

respectfully requests the Examiner to withdraw this rejection of claim 1 and its dependent claims 2-6.

In addition, dependent claim 5 recites *inter alia*: “wherein the base stations each successively transmit the test signals on the different communication channels during a test cycle, and no two base stations simultaneously transmit on the same communication channel.” Trompower does not disclose or even remotely suggest the base stations transmitting test signals simultaneously on different channels such that each base station transmit the test signals on different communication channels in each test cycle. For at least these additional, exemplary reasons, claim 5 is patentably distinguishable from Trompower.

Next, independent claims 7, 8, and 10 recite features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1. Therefore, arguments presented with respect to claim 1 are respectfully submitted to apply with equal force here. For at least substantially analogous exemplary reasons, therefore, independent claims 7, 8, and 10 are patentably distinguishable from (and are patentable over) Trompower. Claims 11-14 are patentable at least by virtue of their dependency on claim 10.

In addition, independent claim 10 *inter alia* recites: “each test signal comprises a plurality of test messages each of which corresponds to a respective communication channel within the network.” Trompower does not disclose or even remotely suggest each base station simultaneously transmitting test messages on different channels. Trompower only discloses sequentially scanning various channels by the processor 200 to determine if the selected base station and mobile terminal are on the same channel (col. 33, line 63 to col. 34, line 24). In short, Trompower does not disclose or even remotely suggest that various base stations transmit

test messages simultaneously on different channels. For at least these additional exemplary reasons, claim 10 is patentably distinguishable from Trompower.

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Trompower in view of U.S. Patent Publication No. 2002/0024929 to Brueckner et al. (hereinafter “Brueckner”). Applicant respectfully traverses these grounds of rejection at least in view of the following exemplary comments.

Claim 9 depends on claim 8. Applicant has already demonstrated that Trompower does not meet all the requirements of independent claim 8. Brueckner is relied upon only for its disclosure of PROFIBUS communication (*see* page 7 of the Office Action) and as such fails to cure the deficient disclosure of Trompower. Together, the combined teachings of these references would not have (and could not have) led the artisan of ordinary skill to have achieved the subject matter of claim 8. Since claim 9 depends on claim 8, it is patentable at least by virtue of its dependency.

IV. New Claims

In order to provide more varied protection, Applicant adds claims 15-17, which are patentable by virtue of their dependency on claim 1 and for additional features set forth therein.

V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Nataliya Dvorson
Registration No. 56,616

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: August 8, 2008